

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA**

TRACIE BEARD, individually and on behalf of all  
others similarly situated,

**CLASS ACTION**

**CASE NO. 5:21-cv-00173-D**

*Plaintiff,*

**JURY TRIAL DEMANDED**

vs.

JOHN HIESTER CHEVROLET, LLC,

*Defendant.*

/

**PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff hereby propounds the following interrogatories to Defendant, to be answered within thirty (30) days from the date of service hereof, fully and separately in writing and under oath by Defendant.

Dated: May 25, 2021

By: **IJH LAW**

/s/ Ignacio J. Hiraldo  
Ignacio J. Hiraldo, Esq.  
(*pro hac vice*)  
1200 Brickell Ave., Suite 1950  
Miami, FL 33131  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on May 25, 2021, I electronically served the foregoing document on counsel for Defendant.

*/s/ Ignacio J. Hiraldo*  
\_\_\_\_\_  
Ignacio J. Hiraldo, Esq.  
(*pro hac vice*)  
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## **TIME FRAME**

Unless otherwise stated, the time period covered by these requests is four (4) years prior to the filing of the Complaint in this case.

## **DEFINITIONS**

As used herein, the terms listed below are defined as follows:

A. "Defendant" or "You" or "Your" shall mean, as applicable, Defendant John Hiester Chevrolet, LLC, and/or any and all other person(s) acting on its behalf or at its direction or control, including, but not limited to, present or former employees, staff personnel, agents, sub-agents, any party or entity possessing or utilizing a telephone system on behalf of said Defendant as described in the operative Complaint, servants, consultants, investigators, contractors or subcontractors, advisors, counsel, accountants, representatives, or any other person compensated by you, regardless of whether such compensation is based in whole or in part on commission or some other measure of performance or otherwise and regardless of whether considered or classified as independent contractors.

B. The word "document" shall include any written or graphic matter or any other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed in your actual or constructive possession, custody, care or control, which pertain directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, letters, telegrams, teletype messages, bulletins, diaries, chronological data, minutes, books, reports, charts, ledgers, invoices, worksheets, receipts, computer printouts, computer disks, electronic mail (e-mail), schedules, affidavits, contracts, transcripts, surveys, graphic representation of any kind, photographs, graphs, microfilms, videotapes, tape recordings, electronically stored material, motion pictures or other films. Further, the word

“Documents” shall be deemed to include the original and any draft thereof, and any copy of an original or a draft which differs in any respect from such original or draft.

C. “Identify” means, with respect to any “person,” or any reference to the “identity” of any “person,” to provide the name, home address, telephone number, business name, business address, business telephone number and a description of each such person’s connection with the events in question.

D. “Identify” means, with respect to any “document,” or any reference to stating the “identification” of any “document” provide the title and date of each such document, the name and address of the party or parties responsible for the preparation of each such document, the name and address of the party who requested or required the preparation and on whose behalf it was prepared, the name and address of the recipient or recipients to each such document and the present location of any and all copies of each such document, and the names and addresses of any and all persons who have custody or control of each such document or copies thereof.

E. “Person” shall mean any natural person, entity, corporation, partnership, association, joint venture, trust, government unit, agency, branch, or office or any subdivision or department thereof.

F. “Prerecorded Message(s)” shall mean a message using an artificial or prerecorded voice that contained the same or substantially similar wording as the Subject Prerecorded Messages, as well as any messages using an artificial or prerecorded voice sent for the same purpose as the Subject Prerecorded Messages including, but not limited to, for the purpose of advertising, marketing, and/or promoting Your dealership, goods, vehicle inventory, and/or services.

G. “Subject Prerecorded Message(s)” shall mean previously recorded voice messages which were sent to Plaintiff by You or on Your behalf as identified in the operative First Amended Complaint.

## **RULES OF CONSTRUCTION**

- A. All/Each – The terms “all” and “each” shall be construed as meaning either all or each as necessary to bring within the scope of the interrogatory all responses that might otherwise be construed to be outside its scope.
- B. And/Or – The connectives “and” and “or” shall be construed either disjunctively and conjunctively as necessary to bring within the scope of the interrogatory all responses that might otherwise be construed to be outside its scope.
- C. The use of the singular form of any word shall include the plural and vice versa.
- D. The masculine gender includes the feminine.
- E. Objections. Where an objection is made to any interrogatory, the objection shall state with specificity all grounds. Any ground not stated in an objection within the time provided by the Federal Rules of Civil Procedure, or by the Court’s order, or any extensions thereof, shall be waived.
- F. Continuing Duty. These interrogatories are continuing and all responsive information you subsequently learn of which you would have been required to produce had it been available at an earlier time shall be produced forthwith in accordance with the Federal Rules of Civil Procedure.

## **INTERROGATORIES TO DEFENDANT**

1. Identify every insurance agreement under which any insurance business—irrespective of whether you have or intend to make such a claim—may be liable (i) to satisfy all or part of a possible judgment against You in this action, (ii) to indemnify You, (iii) to reimburse You for payments made to satisfy the judgment, or (iv) to pay for Your defense of this lawsuit.

**ANSWER:**

2. Identify any third-party that was involved in the transmission of the Prerecorded Messages and, for each, their role in the transmission of the Prerecorded Messages.

**ANSWER:**

3. Identify the total number of Prerecorded Messages that have been sent.

**ANSWER:**

4. Describe the method or process by which Prerecorded Messages were sent. Your response should include, but not be limited to, a description of each stage of the transmission process for the Prerecorded Messages.

**ANSWER:**

5. Describe the manner in which the list(s) of telephone numbers to which Prerecorded Messages were sent was compiled or acquired, and identify the source(s) of the telephone numbers and the persons who complied them.

**ANSWER:**

6. Identify the name(s) of the individual(s) who prepared and/or approved the content of the Prerecorded Messages.

**ANSWER:**

7. Describe what type of consent or permission, if any, You obtained from Plaintiff to send the Subject Prerecorded Messages prior to sending the Subject Prerecorded Messages.

**ANSWER:**

8. Describe what type of consent or permission, if any, You obtained from recipients of the Prerecorded Messages prior to sending the Prerecorded Messages.

**ANSWER:**

9. Describe the reason(s) why Subject Prerecorded Messages were sent to Plaintiff.

**ANSWER:**

10. Describe the reason(s) why the Prerecorded Messages were sent.

**ANSWER:**

11. Identify the name, employment position, and home address of anyone whose voice appears in the Prerecorded Messages.

**ANSWER:**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

**STATE OF** \_\_\_\_\_ )

) **SS:**

**COUNTY OF** \_\_\_\_\_ )

**BEFORE ME**, the undersigned authority, duly licensed to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_, who being by me first duly sworn, deposes and says that he/she has read the foregoing answers to interrogatories, and that they are true and correct.

**SWORN TO AND SUBSCRIBED before me this** \_\_\_\_\_ day of \_\_\_\_\_,  
2020.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

My Commission Expires: